# IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**SPECIAL CIVIL APPLICATION No. 109 of 2005**
**With**
**CIVIL APPLICATION No. 220 of 2006**
**With**
**SPECIAL CIVIL APPLICATION No. 6173 of 2005**
**With**
**SPECIAL CIVIL APPLICATION No. 6175 of 2005**
**To**
**SPECIAL CIVIL APPLICATION No. 6177 of 2005**
**With**
**SPECIAL CIVIL APPLICATION No. 6179 of 2005**
**To**
**SPECIAL CIVIL APPLICATION No. 6181 of 2005**
**With**
**SPECIAL CIVIL APPLICATION No. 6184 of 2005**
**To**
**SPECIAL CIVIL APPLICATION No. 6189 of 2005**
**With**
**SPECIAL CIVIL APPLICATION No. 6193 of 2005**
**With**
**SPECIAL CIVIL APPLICATION No. 6195 of 2005**
**To**
**SPECIAL CIVIL APPLICATION No. 6196 of 2005**
**With**
**SPECIAL CIVIL APPLICATION No. 6198 of 2005**
**To**
**SPECIAL CIVIL APPLICATION No. 6199 of 2005**
**With**
**SPECIAL CIVIL APPLICATION No. 6201 of 2005**
**With**
**SPECIAL CIVIL APPLICATION No. 6203 of 2005**
**With**
**SPECIAL CIVIL APPLICATION No. 6206 of 2005**
**With**
**SPECIAL CIVIL APPLICATION No. 6208 of 2005**

**To**
**SPECIAL CIVIL APPLICATION No. 6209 of 2005**
**With**
**SPECIAL CIVIL APPLICATION No. 6214 of 2005**
**With**
**SPECIAL CIVIL APPLICATION No. 6216 of 2005**
**To**
**SPECIAL CIVIL APPLICATION No. 6217 of 2005**
**With**
**SPECIAL CIVIL APPLICATION No. 6220 of 2005**
**With**
**SPECIAL CIVIL APPLICATION No. 6224 of 2005**
**With**
**SPECIAL CIVIL APPLICATION No. 6227 of 2005**
**With**
**SPECIAL CIVIL APPLICATION No. 6232 of 2005**
**With**
**SPECIAL CIVIL APPLICATION No. 6237 of 2005**
**To**
**SPECIAL CIVIL APPLICATION No. 6239 of 2005**
**With**
**SPECIAL CIVIL APPLICATION No. 11254 of 2005**
**To**
**SPECIAL CIVIL APPLICATION No. 11257 of 2005**
**With**
**SPECIAL CIVIL APPLICATION No. 14735 of 2005**
**To**
**SPECIAL CIVIL APPLICATION No. 14738 of 2005**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE M.R. SHAH**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**GUJARAT STATE UNAIDED BED/BPEDCOLLEGE MANAGEMENT ASSO. - Petitioner(s)**

**Versus**

**JUSTICE RJ SHAH (RETD) FEE COMMITTEE (HIGHER & TECH EDU) - Respondent(s)**

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**Appearance :**

MR MITUL K SHELAT for Petitioner(s) : 1,
MR AD OZA GOVERNMENT PLEADER for Respondent(s) :
RULE SERVED for Respondent(s) : 1,
MR DIPAK R DAVE for Respondent(s) : 1,

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**Date : 10/02/2006**

## CAV JUDGMENT

1. Special Civil Application No.109 of 2005 is filed by the Gujarat State Unaided B.Ed./B.P.Ed. Management Association, Ahmedabad (hereinafter referred to as “the Association” for convenience) and the rest of the Special Civil Applications have been filed by the Self Financed

Institutes who are also the members of the Association and by way of this group petitions, the respective petitioners have challenged the decision / communication dtd.14/12/2004 by Justice (Retd.) R.J. Shah Fee Committee determining the fee structure of the petitioners institutions for the academic years 2003-2004, 2004-2005 and 2005-2006.

2. As the common question of facts and law arise in this group of petitions, the same are being disposed of by this common judgement and order.

3. All the petitioners institutions are Self Financed Institutions imparting education in the field of B.Ed./B.P.Ed. In the State of Gujarat and are the members of the Association i.e. the petitioner of Special Civil Application No.109 of 2005. It appears that initially the Government of Gujarat framed State Level Committee for

determination of fees in the private unaided colleges in the State of Gujarat. By Notification dtd.7/9/2002, the Committee prescribed fees with respect of B.Ed./B.P. Ed. Colleges as under;-

| Course | Fee Seat-50 | Payment Seat-45 | NRI Seat-5 | Total 100 |
|---|---|---|---|---|
| B.Ed. | 10,000 | 30,000 | 1,25,000 | 27,50,000 |
| B.P.Ed. | 10,000 | 30,000 | 1,25,000 | 27,50,000 |

It also appears that the fee structure was made applicable for the academic year 2002-2003 and thereafter for the academic year 2003-2004, the State Government issued Resolution dtd.6/6/2003 prescribing the maximum limit of annual fees to be charged by the Self Financed Institutions in the State. Under the said Resolution with respect of the B.Ed./B.P.Ed. Institutions, annual fee was prescribed at Rs.15,000-00 per annum. It is the contention on behalf of the petitioners that being aggrieved by and dissatisfied with the said action /

notification, the Federation of Gujarat State Affiliated College Management Association preferred Special Civil Application No.8131 of 2003 and in the Letters Patent Appeal by order dtd.8/9/2003, the Division Bench of this Court permitted the Colleges to collect further sum of Rs.15,000-00, over and above the annual fee of Rs.15,000-00 prescribed by the aforesaid Committee on certain terms and conditions and subject to the decision of the Fee Committee constituted by the State of Gujarat. It appears that thereafter, the State Government constituted Justice R.J. Shah (Retd.) Fee Committee pursuant to the directions issued by the Honourable Supreme Court in the judgement of Islamic Academy of Education and Anr. Vs. State of Karnataka and Ors, reported in (2003) 6 SCC 697 and all the institutions were informed that the fee with respect of their colleges would be finalised by the said Committee. It appears that all the Self Financed Institutions were called upon to

furnish information as per the prescribed format along with the proposed fee structure determined by them. It is the contention on behalf of the petitioners that in pursuance of the same, the individual members of the petitioner association supplied the information as per the prescribed format along with their proposal of the annual fees and thereafter the team delegated by the respondent Committee, visited the colleges of the petitioner Association i.e. the respective Self Financed Colleges to verify the details as supplied by them and the said process was completed on 31/5/2004. It is the contentions of the petitioners that however, they did not receive any decision of the respondent committee regarding determination of their fee structure and in the midst of the academic term, the State Government by communication dtd.10/7/2004 pressed all the B.Ed./B.P.Ed. Colleges to prescribe ad-hoc fee structure of Rs.20,000-00. That thereafter, all the petitioners were served with

a copy of the communication / decision dtd.14/12/2004 addressed by the respondent Fee Committee prescribing maximum ceiling limits of fees with respect of their respective colleges and on going through the said communication / decision dtd.14/12/2004, it appears that with regard to 9 (nine) institutions, the respondent Committee fixed Rs.22,000-00 per annum as fee, Rs.18,000-00 per annum with regard to 21 (twenty one) institutions and with regard to the rest of the 20 (twenty) Self Financed Institutions, the Committee prescribed and determined the fee at Rs.15,000-00 per annum. Being aggrieved and dissatisfied with the said decision of the respondent Fee Committee, the respective petitioners have preferred these Special Civil Applications under Article 226 of the Constitution of India.

4. Mr.N.D. Nanavati, learned senior advocate appearing on behlaf of the respective petitioners

has assailed the decision of the respondent committee determining the fee structure for Self Financed B.Ed./B.P.Ed. Institutions for the academic year 2003-2004, 2004-2005 and 2005-2006, mainly on the grounds that [1] the impugned decision is in breach of the principle of natural justice, as, though it was specifically requested by the Association to give personal hearing, no opportunity has been afforded. [2] That no reasons have been assigned while fixing the three different fees structure for different colleges i.e. Rs.22,000-00, Rs.18,000-00 and Rs.15,000-00 per annum and [3] that the respondent Committee has not considered the case of individual institutions and by virtue of the aforesaid decision, the Committee has generalized the fee structure. Mr.Nanavati has relied upon the recent judgment of the Honourable Supreme Court in the case of P.A. Inamdar & Ors. Vs. State of Maharashtra and Ors, reported in (2005) 6 SCC 537, more particularly para 149 at page 608.

5. Elaborating the contentions and the above submissions, Mr.Nanavati, learned senior advocate appearing on behalf of the petitioners – Self Financed Institutions has submitted that when the Committee has determined the fee structure for the aforesaid 3 (three) years by which the institutions were restrained from recovering fees more than what is fixed by the committee, before finalizing and determining the same, the respective petitioners institutions ought to have been given an opportunity of being heard so that they can represent their case for higher fee structure and/or they can make their submissions before the Committee and explain the committee that the proposed fee structure would be inadequate and/or will ultimately lead to loss to the institutions. However, no opportunity of being heard was afforded to the petitioners institutions and therefore, the impugned decision is in violation of the principle of natural

justice.

6. Mr.Nanavati has further submitted that event the fixation of fee structure vide communication / decision dtd.14/12/2004 at Rs.22,000-00, Rs.18,000-00 and Rs.15,000-00 respectively, per annum is 50% less than what was prescribed by the State Government for the year 2002-2003 and it has not disclosed any reason for seeking to review its earlier determination. It is also further submitted that in the impugned decision, the petitioners have been classified in 3 (three) categories by providing fee structure i.e. Rs.22,000-00, Rs.18,000-00 and Rs.15,000-00 respectively, per annum, and the petitioners were entitled to be informed the parameters, if any, determined by the committee for creating the artificial classification. It is also further submitted that at no point of time, the committee had disclosed such classification for the purpose of determining the fee structure and in the

impugned decision, there is no material forthcoming to suggest reasons for classification of the different colleges for different fees. Thus, the impugned classification is arbitrary and/or irrational, which requires to be quashed and set aside. Relying upon the judgment of the Hon'ble Supreme Court in the case of P.A. Inamdar, more particularly para 149, Mr.Nanavati has submitted that as observed by the Honourable Supreme Court, so long as the Committee remained functional, they should be more sensitive; they are required to act rationally and reasonably with due regard for realities and they should be refrained from generalizing fee structure and, were indeed, should go into accounts, scheme, plans and budget of an individual institution for the purpose of finding out what would be the ideal and reasonable fee structure for that institution. Mr.Nanavati has also further submitted that the respondent Committee ought not to have treated all the institutions equally and

all the institutions should have been given chance to develope. He has also further submitted that no reason have been assigned and/or no particulars have been given in the impugned decision determining the fee structure as regards what was considered by the Committee and on what basis the Committee has determined the fee structure at Rs.22,000-00, Rs.18,000-00 and Rs.15,000-00 respectively, per annum for the aforesaid three years and as the impugned order is a non-speaking and non-reasoned order, the same deserves to be quashed and set aside and the matter is required to be remanded to the respondent committee for deciding afresh after giving an opportunity to the petitioners.

7. At this stage, Mr.Nanavati, learned senior advocate appearing on behalf of the petitioners has fairly conceded that instead of giving an opportunity of personal hearing to all the petitioners institutions, the petitioners

will be satisfied if the representative of the Association would be given an opportunity to represent the individual case for and on behalf of all the Self Financed Institutions. Consequently, it is prayed to allow these petitions.

8. On the other hand, these petitions are opposed by Mr.A.D. Oza, learned Government Pleader with Mr.Dipak R.Dave, learned advocate appearing on behalf of the respondent Fee Committee. An Affidavit-in-reply is filed on behalf of the respondent Committee. Learned advocate appearing on behalf of the respondent Committee has opposed these petitions mainly on the grounds that [1] the present petitions against the decision of the respondent Fee Committee is not maintainable [2] that the Committee was essentially acting in execution of the order passed by the Honourable Supreme Court and the power of judicial review is not intended

to assume a supervisory role; [3] that the Fee Committee had taken into consideration the parameters and the observations laid down by the Honourable Supreme Court in the case of Islamic Academy of Education (Supra) and initially the said Committee had asked for requisite informations from the concerned institution by way of detailed questionnaire. The data received from the questionnaire had been analysed to keep a general idea of the facility, infrastructure, capital investment with regard to the last 2 years, development plan on hand at present and compliance of requirement for furnishing facility and other staff members as per the requirement of regulatory authority like N.C.T.E. It is also further submitted that after the analysis of the data, the Sub-Committee consists of the principal of the Government College, Senior Professor, one Internal Auditor and Chartered Accountant had undertaken the personal visit of all the institutions to verify the facilities and

infrastructures available at the institutes and to verify the adequacy of staff members and further to verify on certain issues arising after analysing the data, submitted by the concerned institutions. During the aforesaid visit, the Committee had held discussion with college management and also with some of the students, staff members to understand their view points on certain specific issues like fees, facilities, quality of education etc. and the said Committee had also visited the hostel facilities and other infrastructures to verify as regards the quality of service and the care provided to the students. It is also further submitted that the analysis of data provided in the questionnaire and the report of the Sub-Committee were taken into consideration during the final analysis and since the fees to be arrived at was based on recurring costs as well as some allowances for maintenance and future development. Not only that, additional data was also called for to work out the costs of

eduction per student. In the Affidavit-in-reply, it has been submitted that while arriving at the final fee structure, the Committee had kept in mind the dual objects of affordability of the institution on a long term basis, capable to provide quality education in vital field of education and average student's affordability as well as their related disciplines. The learned advocate appearing on behalf of the respondent Committee has also relied upon the questionnaire / Information Memorandum sent to all the institutions calling for vital data which is reflected in the reply.

9. So far as the grievance of the petitioners with regard to fixing of the fee structure is concerned, it is submitted that the Committee consisted of expert members, after considering all the materials including the Audited Accounts of the concerned colleges, Information Memorandum prepared by the Chartered

Accountant of the Committee, expenses to be incurred by the Colleges, the expenses to be incurred by the colleges towards the students etc., has fixed the fee structure. Therefore, it is submitted that the decision of the respondent Committee is after following the due procedure and considering the opinion of the experts, such as Chartered Accountants etc. and after considering the questionnaire / materials supplied by the concerned institutions. Consequently, it is requested to dismiss all the Special Civil Applications.

10. Meeting with the contentions on behalf of the petitioners with regard to the categorization of the institutions in 3 categories and fixing the fee structure accordingly, it is submitted that the Committee has prepared the cost settlement to decide fee structure. It is submitted that so far as some of the institutions who were institutions and it was

their first year, they did not submit the audited accounts and therefore, on the basis of the materials available with regard to the institutions, the Committee has determined the fee structure at Rs.18,000-00 and Rs.15,000-00 respectively, per annum and with regard to those institutions, who were fully developed and considering their infrastructure and the audited accounts, the committee has determined the fee structure at Rs.22,000-00 per annum, so far as those institutions are concerned. Therefore, it is submitted that the decision of the Committee with regard to 3 fee structures and the categorisation is on the basis of rational consideration and therefore, it is requested to dismiss these petitions.

11. So far as the contention on behalf of the petitioners that the fee structure determined by the respondent committee vide decision / communication dtd.14/12/2004 is 50% less than

what was prescribed by the State Government for the academic year 2002-2003 is concerned, it is submitted that the said decision was not final decision and it was ad-hoc decision without there being any audited accounts and the data available with the Committee and now the impugned decision has been taken after considering the data submitted by the respective institutions and considering the expert opinion of Chartered Accountant, internal Auditors etc., and therefore, it is submitted that it is not open for the petitioners to rely upon the determination of earlier fee structure determined for the academic year 2002-2003 which was ad-hoc in nature.

12. Meeting with the submissions and contentions raised on behalf of the petitioners with regard to breach of the principle of natural justice, it is submitted that the Sub-Committee has taken view points of the concerned colleges

and their data were also considered by the Committee and thereafter,the entire data including the audited accounts etc. was put up before the Committee and the Committee in turn, considered all the details and with the help of reputed Charted Accountants and thereafter, the Committee approved the fee structure of the concerned institutions. It is submitted that the hearing means the opportunity, which was required to be given and no personal hearing as contended on behalf of the petitioners, was given. Consequently, it is requested to dismiss the present petitions.

13. Heard the learned advocates appearing on behalf of the parties. At the outset, it is required to be noted that the respondent Committee is constituted pursuant to the order passed by the Hon'ble Supreme Court in the case of Islamic Academy of Education (Supra) and the said Committee is required to determine and fix

the fee structure for the Self Financed Institutions and so far as the case on hand is concerned, the said Committee was required to determine and fix the fee structure for the academic year 2003-2004, 2004-2005 and 2005-2006. Vide Resolution dtd.28/29-8-2003, fee was determined at Rs.15,000-00 which came to be challenged by the Association and respective institutions and the said Resolution came to be stayed by the Division Bench of this Court on certain terms. That thereafter, the respondent Committee determined / fixed the fee structure for the aforesaid 3 years in three tier. Some of the institutions i.e. 9 institutions in number are permitted to recover fee up to maximum limit of Rs.22,000-00 per annum; some of the other institutions i.e. 21 institutions in number are permitted to recover and charge fee at the rate of Rs.18,000-00 per annum and some other institutions i.e. 20 institutions in number are permitted to charge maximum fee at the rate of

Rs.15,000-00 per annum, vide impugned decision dtd.14/12/2004. It is the contention on behalf of the petitioners that the impugned decision is in breach of the principle of natural justice, as individual institutions are not given an opportunity of personal hearing to represent their case before the Committee. However. It is required to be noted that as so stated in the Affidavit-in-reply, which is not disputed by the petitioners that the Committee had asked for requisite sanction from the concerned institutions by way of a detailed questionnaire and details required in the questionnaire are as follows;

1.General details.

2.Infrastructure as on 31/3/2003.

3.Students profile course wise.

4.Fee structure/amount per student quota wise.

5.Financial details

6.Details of staff both teaching and non-

teaching as on 31/3/2004.

7.Audited Accounts in the year 2003-2004.

14. It is the contention on behalf of the respondent Committee that the said data received by way of the questionnaire, were analiised to get the general idea of the facility, infrastructure, capital investment incurred over last 2 years, plans for development on hand at present and compliance of requirement concerning the faculty and other staff members. It is also further stated in the reply that after analyzing the data, a Sub-Committee consisting of Principle of Government College, Senior Professor, one Internal Auditor, Chartered Accountant had paid personal visit to all the institutions to verify the adequacy of staff members and further to clarify on certain issues, arising after analyzing the data submitted by the concerned institutions. It is also the contention of the respondent that during the said visit, the committee had held meeting with college

management as also with the staff members. It is also the contention on behalf of the respondent committee that the analysis of the data provided in the questionnaire and the report of the sub-committee were taken into consideration during the final analysis and since the fees to be arrived at was based on recurring cost as well as some allowances for maintenance, additional data had also been called for to work out the cost of education per student. It is also submitted in the reply that while arriving at the final fee structure, the committee had kept in mind the dual objective of affording of the institution on long term basis, capital to provide quality education in vital field of education and average student affordability as well as other related discipline. It is also the case on behalf of the respondent committee that almost all the colleges for B.Ed./B.P.Ed. Courses had submitted the data and on analyzing the same, it was decided to take assistance of other Chartered

Accountants and therefore, a team of four Chartered Accountants were requested by the Committee and the team consisted of four Chartered Accountants had been constituted. It is submitted that the said team of Chartered Accountants had initially scrutinized the data submitted by the institutions along with the principal Chartered Accountant and thereafter, the committee had decided to form a sub-committee to pay personal visit to the colleges and to verify the claim about the facilities, infrastructures, adequacy of staff etc. as provided in the Institution Memorandum by the concerned Colleges and the said Committee was constituted of three members namely Principal of Government College, Senior Professor sand Internal Audit and one Chartered Accountant, visited the concerned colleges along with the Information Memorandum submitted by the said Colleges and after considering all the materials including the audited accounts of the concerned

colleges, Information Memorandum prepared by the Chartered Accountant of the Committee, expanses to be incurred by the colleges, expenses to be incurred by the colleges towards the students etc, has fixed the fee structure. Thus, on going through the affidavit in reply, it appears that the Committee has taken a decision after following the elaborate procedure and considering the material / data supplied by the concerned institutions. Thus, as such, it cannot be said that the impugned decision of the Committee is in breach of the principle of natural justice. To give an opportunity is not always personal hearing and what is required to be considered is as to whether the decision has been taken after considering the relevant aspects of the matter and data and giving reasonable opportunity or not. Therefore, merely because personal hearing to individual institutions was not afforded, on that basis alone, it cannot be said that the impugned decision is against the

principle of natural justice. In the impugned decision itself, it has been observed by the Committee that the fee committee called for the information from the Self Financed Institutions, gave an opportunity to the stake holder to represent their case before the Committee, took experts' view on various subjects and got some site inspections done by the sub-committee consisted of various members of the committee and the subject experts and therefore, the decision has been taken institution-wise. However, on going through the impugned decision as stated hereinabove, the committee has determined the fee structure in three tier i.e. for some of the institution the committee has determined fee structure at Rs.22,000-00 per annum; with regard to some of the institutions at the rate of Rs.18,000-00 per annum and with regard to other 20 institutions at the rate of Rs.15,000-00 per annum and on going through the impugned decision / order dtd.14/12/2004, it appears that

no reasons have been assigned showing that on what basis there is generalization of determination of fee structure and on what basis some of the institutions are treated equally. There is no justification or reason assigned in the impugned decision with regard to the fixation of Rs.22,000-00 per annum with regard to some of the institutions i.e. 9 institutions in number, Rs.18,000-00 per annum with regard to 21 institutions and Rs.15,000-00 per annum with regard to 20 institutions and to that effect, the impugned order is defective. It is required to be noted that in appropriate cases, there might be one common fee can be prescribed and to that extent if for some of the institutions one common fee is prescribed, it cannot be said that there is generalization. However, there must be some common features and some reasons are required to be assigned / discussed for determining the common fee structure. At this stage, the relevant observations made by the Hon'ble Supreme Court

in the case of PA Inamdar and ors (Supra) more particularly para 149 is required to be considered, which is reproduced as under;-

> “149. However, we would like to sound a note of caution to such Committees. The learned counsel appearing for the petitioners have severely criticized the functioning of some of the Committees so constituted. It was pointed out by citing concrete examples that some of the committees have indulged in assuming such powers and performing such functions as were never given or intended to be given to them by Islamic Academy. Certain decision of the committees were subjected to serious criticism by pointing out that the fee structure approved by them was abysmally low which has rendered the functioning of the institutions almost impossible or made the institution run into losses. In some of the institutions, the teachers have left their jobs and migrated to other institutions as it was not possible for the management to retain telanted and highly qualified teachers against the salary permitted by the

> Committees. Retired High Court Judges heading the Committees are assisted by expert in Account and Management. They also have the benefit of hearing the contending the parties. We expect the committees, so long as they remain functional, to be more sensitive and to act rationally and reasonably with due regard for realities. They should refrain from generalizing fee structure and where needed should go into accounts, scheme, plans and budgets of an individual institution for the purpose of finding out what will be an ideal and reasonable fee structure for that institution."

15. Thus, the Hon'ble Supreme Court has observed and held that the Fee Committee should refrain from generalizing fee structure and where in need should go into the accounts, schemes, plans and budgets of individual institutions for the purpose of finding out what would be an ideal and reasonable fee structure for that institution. The Hon'ble Apex Court in the aforesaid decision has also observed that "We

make it clear that in case of any individual institution, if any of the committees is found to have exceeded its powers by unduly interfering in the administrative and financial matters of the unaided private professional institutions, the decision of the committee being quasi judicial in nature, would always be subject to the judicial review." As stated above, as no reasons have been assigned by the Committee with regard to the generalization of the fee structure of aforesaid three categories and to that extent the matter is required to be remanded to the respondent Committee to pass a speaking and reasoned order. In view of the fact that the matters are being remanded to the respondent committee, if the petitioners so choose, they may submit their individual case through their representative, more particularly one of the office bearers of the petitioner association on or before 1/3/2006 and may remain present on 1/3/2006 to make submissions, against the aforesaid fee structure

i.e. Rs.22,000-00, Rs.18,000-00 and Rs.15,000-00 respectively, per annum and the respondent committee may also consider the same and shall pass reasoned and speaking order in accordance with law and on merits, after considering the submissions made by the petitioners institutions,if any, within a period of **ONE MONTH** thereafter. However, it is hereby specifically held that the procedure adopted by the respondent Committee while taking the decision for fixing / determining the fee structure is just, legal and proper. However, as no reasons have been assigned by the respondent Committee in the impugned order while prescribing the common fee structure and for that precise reason, the matter is being remanded to the respondent Committee and till the respondent committee takes a decision as aforesaid, the present position and the interim arrangement which was prevailing during the pendency of these petitions shall be continued.

16. For the reasons stated hereinabove, the petitions succeeds in part. The impugned decision of the respondent Committee dtd.14/12/2004 is hereby quashed and set aside for the reasons as aforesaid and the matter is remanded to the respondent Committee for passing appropriate reasoned and speaking order in accordance with law and on merits, after considering the submissions that may be made by the respective petitioners through their representative, if any, more particularly by one of the office bearers of the petitioner Association with regard to their individual cases, and take appropriate decision within a period of **SIX WEEKS** from the date of receipt of representation from the petitioners if any, to be submitted on or before 1/3/2006 and to remain present on 1/3/2006 at the first instance. The respondent Committee shall communicate their decision to the individual institutions and till then the present interim arrangement is directed to be continued and the

parties shall abide by the decisions that may be taken by the respondent Committee on remand, of course, subject to challenge before the higher forum, in accordance with law and on merits.

Rule is made absolute to the aforesaid extent. However, there will be no order as to costs.

In view of the disposal of the main petition being Special Civil Application No.109 of 2005, Civil Application No.220 of 2006 does not survive and the same stands disposed of accordingly.

(M.R.SHAH,J.)

rafik